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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/332,863	06/15/1999	TERESITA VERGARA IMPERIAL	REV-99-10	3442

7590 12/10/2003

WARD AND OLIVA
708 THIRD AVENUE
NEW YORK, NY 10017

EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/332,863

Applicant(s)

IMPERIAL, TERESITA VERGARA

Examiner

Brian P Mruk

Art Unit

1751

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-98 is/are pending in the application.
- 4a) Of the above claim(s) 69-97 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-68 and 98 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed September 29, 2003. By amendment, applicant has amended claims 26-28, 31-32, 34, 41-42, 45, 49, 52, 54, 57-59, 62, 64, 66 and 68. Claims 69-97 remain nonelected. Currently, claims 25-98 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 13, 16 and 21.
3. The objection of claim 45 is withdrawn in view of applicant's amendments and remarks.
4. The rejection of claims 25-68 and 98 are under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, is maintained for the reasons of record. The examiner notes that applicant has shown basis for the limitation "approximately 1 part by weight of a powder bleach composition" (see page 29, line 15 of the instant specification), and thus, the new matter rejection pertaining to this limitation has been withdrawn.

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5. The rejection of claims 27, 32-40, 42, 52, 57, 59, 62, 64, 66 and 68 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks.

Response to Arguments

6. Applicant's arguments filed September 29, 2003 have been fully considered but they are not persuasive.

Applicant argues that the instant specification provides support for the limitations "approximately 1.5 to about 5 parts by weight of an aqueous developer composition", and "approximately 1.5 to about 5 parts by weight of an aqueous based hair colorant" in instant claim 25. Specifically, applicant argues that the disclosure on page 29, lines 12-16 provides support for the limitations "approximately 1.5 to about 5 parts by weight of an aqueous developer composition", and "approximately 1.5 to about 5 parts by weight of an aqueous based hair colorant" in instant claim 25. However, the examiner respectfully asserts that the recitation 2 parts aqueous developer does not provide support for the claimed range of 1.5 to about 5 parts by weight of an aqueous developer, and that the recitation 2 parts aqueous colorant composition does not provide support for the claimed range of 1.5 to about 5 parts by weight of an aqueous based hair colorant.

Conclusion

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7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Bm

Brian Mruk
December 8, 2003

Brian P. Mruk

Brian P. Mruk
Patent Examiner
Tech Center 1700